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2 | UNITED STATES BANKRUPTCY COURT

3 | SOUTHERN DISTRICT OF NEW YORK

4 Case No. 09-50026-reg

6 In the Matter of:

7

8 MOTORS LIQUIDATION COMPANY, et al.

9 f/k/a General Motors Corporation, et al.,

10

11 | Debtors.

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15 United States Bank

16 One Bowling Green

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19 Februar

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23 | B E F O R E:

24 HON. ROBERT E. GERBER

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1 HEARING re Motion of Debtors for Entry of Order Pursuant to 11
2 U.S.C. Section 105(a) and General Order M-390 Authorizing
3 Implementation of Alternative Dispute Resolution Procedures,
4 Including Mandatory Mediation - Status Conference.

5

6 HEARING re Debtors' Objection to Proofs of Claim Nos. 04620 &
7 07291 Filed by Theresa L. Marchbanks - Status Conference.

8

9 HEARING re Debtors' Sixth Omnibus Objection to Claims (Amended
10 and Superseded Claims)

11

12 Debtors' Seventh Omnibus Objection to Claims (Duplicate Claims)

13

14 HEARING re Debtors' Eighth Omnibus Objection to Claims (Claims
15 with Insufficient Documentation)

16

17 HEARING re Debtors' Ninth Omnibus Objection to Claims (Claims
18 with Insufficient Documentation)

19

20 HEARING re Motion to Withdraw as Counsel for NIDEC Motors &
21 Actuators and Proposed Order Authorizing the Withdrawal of
22 Erman, Teicher, Miller, Zucker & Freedman, P.C. as Attorney for
23 NIDEC Motors & Actuators.

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25 Transcribed by: Sharona Shapiro

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1 P R O C E E D I N G S

2 THE COURT: Okay, well start with GM Motors
3 Liquidation Company.

4 Mr. Smolinsky, good morning, come on up, please.

5 MR. SMOLINSKY: Good morning, Your Honor. If I may,
6 I'd like to run through the agenda that was delivered to Your
7 Honor yesterday, the final agenda.

8 First on the agenda, the only contested matter, which
9 is now uncontested, is the ADR motion. Your Honor, everyone
10 close to this case has recognized over the last several months
11 that what this case needed is a process to resolve the
12 thousands of unliquidated and litigation claims that have been
13 filed against the company. We have tried to resolve claims on
14 a one-off basis. We've had some success but minimal success.
15 So we're very anxious to get started with a process, primarily
16 in the product liability and torts area where most of the
17 unliquidated claims reside. Even prosecuting this motion and
18 speaking with the various claimants have given us significant
19 insight into the claims pool and how best to approach them. Of
20 course the attempt would be to try to resolve it before we get
21 into the mediation process.

22 THE COURT: Pause, please, Mr. Smolinsky. In
23 ballpark terms, what's the order of magnitude of the number of
24 the claims that you have to wrestle with -- not the dollar
25 amount; I know that's one of the things you're trying to

1 accomplish by this motion, but the number of them, how many of
2 these claims you've got to get your arms around.

3 MR. SMOLINSKY: About 10,000.

4 THE COURT: Okay. Continue then.

5 MR. SMOLINSKY: And obviously, Your Honor, we can't
6 mediate or arbitrate 10,000 claims. So this is going to be
7 hopefully a collaborative effort with a lot of give and take to
8 try to get to a consensual resolution. The fact that we have
9 basically self-insured status up to twenty-five or thirty-five
10 million dollars makes it more difficult than the average case
11 to deal with these issues.

12 The procedures that we propose in the motion are
13 procedures that have been used in other cases in this district.
14 The one exception is the capping mechanism. In order to avoid
15 what otherwise would be a very difficult estimation process at
16 confirmation, we've tried a fairly unique procedure, given the
17 large number of unliquidated claims, to allow claimants to
18 voluntarily come in and agree to cap their claim to a number
19 that we believe works for us in connection with moving forward
20 with confirmation. And the give and take of that is because
21 they're willing to cap their claim we would be willing to deal
22 with their claim first in the mediation process, try to resolve
23 their claims. Secondly, we'd agree to pay for the mediation
24 for both sides of the mediation or arbitration. So there is
25 hopefully incentive on both sides. We have heard some very

1 positive reports back with respect to this procedure. We're
2 hoping that this will also assist us going forward to try to
3 make meaningful distributions to creditors as quickly as
4 possible.

5 The capping procedure allows a party to deliver an
6 offer, a capping offer, and we can accept it or we can come
7 back with a counter-offer, and hopefully we would reside on a
8 number which is more representative of the underlying damages.
9 And then in exchange for agreeing to that cap we would agree to
10 fast-track them through the process.

11 There have been, Your Honor, eighteen formal and
12 eleven informal objections to the procedures. A number of
13 these objections have been resolved simply by talking to the
14 claimants about the procedure. We've made a number of
15 revisions to deal with the other objections that brings us to
16 an uncontested hearing this morning.

17 I just want to highlight five modifications that have
18 been made since the original motion was proposed. First of
19 all, for purposes of today's hearing we're limiting the ADR
20 procedures to the primary focus of the motion, which is
21 personal injury, product liability, torts claims, rejection of
22 contract damage claims and certain indemnity claims.

23 The other types of claims which are like indemnity
24 claims that are related to asbestos and certain other claims
25 are going to be adjourned to a hearing. We proposed April 8th,

1 which is another GM hearing, which we'll confirm with your
2 chambers. But with that we've knocked out a host of objections
3 and it's given us an opportunity to talk to them about the
4 procedure.

5 Second, Your Honor, we've carved out environmental
6 claims totally. We've notified all the parties that have
7 environmental claims that we will not be going forward in
8 this motion with respect to environmental claims. We need to
9 rethink the process of dealing with super-fund claims and the
10 like. And so, obviously reserving our rights to propose
11 another ADR program with respect to those claims, we're carving
12 them out.

13 Third, Your Honor, we filed with this Court weeks ago
14 a schedule of proposed mediators for the process. The ad hoc
15 committee of tort claimants have provided additional names.
16 We've now added those names. Also, in speaking with the ad hoc
17 committee we have agreed to provide them with a cap for each
18 mediator that would be a cap on the amount that could be
19 charged to a claimant.

20 THE COURT: Is that Mr. Bressler's ad hoc committee
21 or a different one?

22 MR. SMOLINSKY: That is, Your Honor. And with that
23 cap that they've now reviewed we are in agreement with that
24 group, which is a very large group of plaintiffs, as to the
25 appropriate caps that could be charged to an individual

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1 claimant. When the ADR notice is sent out they'll get a list
2 of ADR mediators with schedules of cost and a cap, and they can
3 pick whichever mediator they want for their particular area of
4 need, whether it's personal injury or business claims,
5 rejection damage claims and the like.

6 Independently, Your Honor, we did add a provision
7 that we thought might be helpful to allow us to pay for the
8 full amount of any mediator or arbitrator where we've been
9 provided with evidence of substantial hardship. We thought
10 that that was something that should be added to ease the
11 burden.

12 Number four, we've revised the procedures to better
13 accommodate a free flow of information. There's been a lot of
14 discussions with the ad hoc committee about how they could get
15 the information that we have, we could get the information that
16 they have to make the mediation more productive. And so there
17 are some changes in the ADR procedures that focus on that.

18 And then finally, we've added some language just to
19 make sure, which was our original -- certain -- our original
20 intent that it doesn't preclude a claimant from going after any
21 non-debtor party if they're subject to the ADR procedures.

22 Your Honor, there are three objections which I just
23 agreed to make a quick statement on the record to resolve their
24 objection. Two of them, the Nova Scotia bondholders and the
25 Andorra Bank, we've agreed, as we always anticipated, the debt

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1 claims were not part of this procedure. So we made clear that
2 their claims under their bonds, and in respect of Nova Scotia
3 their deficiency claims, are not governed by this ADR motion.

4 Lastly, Your Honor, with respect to Getrag, which is
5 a vendor, we've agreed to adjourn their claim -- the motion
6 with respect to their claim to the April hearing to allow their
7 discussions with New GM with respect to certain contract
8 terminations to conclude. And hopefully that would resolve any
9 claims that exist between Getrag and the estate.

10 And Your Honor, I think that's the summary. If Your
11 Honor has any questions, but I don't believe that there are any
12 pending objections from third parties.

13 THE COURT: All right. And under my case management
14 order any objections would have been -- had to have been
15 previously filed and articulated to the debtor, so we're not
16 taking any new objections today. I will, however, hear from
17 anybody who you announced a deal with or an understanding with
18 to comment on whether or not you got it right.

19 Anybody in that category who wishes to be heard?

20 MS. NOVOSELSKY: Good morning, Your Honor. This is
21 Jenn Novoselsky at Sidley Austin. We represent the TPC
22 vendors, and we have previously discussed this with counsel for
23 GM, but just wanted to get it on the record as well that both
24 parties have agreed that TPC claims also are not governed by
25 this ADR motion as well.

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1 MR. SMOLINSKY: Your Honor, I believe that that is
2 one of the claims that are adjourned to April 8th, and in the
3 definition of subject claims we exclude the category that would
4 include TPC's claim.

5 THE COURT: Okay. Anyone else?

6 Pause, please, Mr. Smolinsky.

7 Your appearance, please?

8 MS. MITCHELL: Nancy Mitchell from Greenberg Traurig
9 on behalf of the Nova Scotia noteholders. And I only wanted to
10 say that Mr. Smolinsky did get it right.

11 THE COURT: Okay, fair enough.

12 All right, everybody who wanted to be heard has now
13 had that chance.

14 Okay, Mr. Smolinsky, I'm grateful for your ability to
15 consensually resolve the objections. The underlying merit of
16 the procedure is obvious to anyone who has reviewed the papers.
17 Even with the procedures you put in place, the fact that there
18 may be some that will eventually not be susceptible to ADR
19 resolutions in one way or another when we're starting with
20 10,000 is enough to get my attention. I don't know how many of
21 those 10,000 may remain, but obviously this is something that's
22 appropriate, it's fair, it's good all around, and it's
23 approved.

24 MR. SMOLINSKY: Thank you, Your Honor. We'll submit
25 an order.

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1 THE COURT: Very good. Do you have other stuff you'd
2 like to bring to my attention, Mr. Smolinsky?

3 MR. SMOLINSKY: Not with respect to that motion, but
4 we have several other matters that I'd like to run through.
5 After the next one they'll run very quickly.

6 THE COURT: Sure, go ahead.

7 MR. SMOLINSKY: Your Honor, the next motion is an
8 objection to two claims filed by Ms. Marchbanks. This motion
9 is representative of a host of claims, which I think Your Honor
10 just mentioned, may not be susceptible to ADR. These are -- we
11 have dozens of claims filed by individuals for outrageous
12 amounts, and we've tried to do the appropriate thing to try to
13 give full deference to the fact that they're pro se, that we
14 want to give them every bit of due process that we agree on and
15 that Your Honor agrees on. We've sensitized the whole claim
16 team in this case, not only at the law firms but also with the
17 company to be patient with every claimant and to try to get at
18 the basis for the claim as best that they could.

19 Your Honor, these claims which each were -- one was
20 filed in the amount of 2.5 billion dollars. The other --

21 THE COURT: With a B?

22 MR. SMOLINSKY: B, yes. The other one just said
23 22.5; I don't know what that is, but it may be a reference to
24 the same 2.5 billion.

25 Your Honor, attached to the motion is a letter that

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1 we had sent to Ms. Marchbanks prior to bringing this motion
2 asking her to provide background on the claim. The claim is --
3 it just says "personal injury" but nothing else, and it also
4 seeks a 10,950 dollar priority for wages. We've looked at our
5 records. We don't have any record of an action that has been
6 brought by Ms. Marchbanks or the fact that she was an employee.

7 After exchanging e-mails with her where she did --
8 she said 'I gave you everything you need, what else do you
9 need?' We again sent an e-mail explaining why we needed it and
10 tried to avoid this hearing. We got no reply to that e-mail.
11 We then filed the motion. We got no reply to the motion. We
12 attempted to e-mail -- to call her on February 8th, two days
13 before this motion was originally scheduled. The number that
14 she provides in her proof of claim is no longer in service. We
15 e-mailed her to the same address that she e-mailed us on the
16 8th and the 9th and we got no response. After this hearing was
17 adjourned as a result of the snowstorm we then sent her a
18 letter on February 16th, again requesting her to contact us to
19 provide us with information and reminding her of the hearing
20 today for which we received no response. Ordinarily that would
21 clearly be grounds for taking a default.

22 I did want to highlight for this Court the fact that
23 in connection with the ADR motion she did take the attachment
24 from the ADR motion, which is the ADR notice and the settlement
25 procedures, she mailed it back to us and checked off that she

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1 accepted our settlement offer even though the settlement offer
2 of course was blank. And she checked off that she's willing to
3 go into binding arbitration. Yet we received no response or no
4 information relative to her claim in connection with the
5 objection motion.

6 And Your Honor, we're now faced with a decision as to
7 whether to go forward today and take the default or to try one
8 more time to reach out to her. But so far our attempts have
9 failed. I don't think that this claim is necessarily
10 susceptible to binding arbitration where we would go into the
11 arbitration not knowing any background as to the basis of her
12 claim.

13 So Your Honor, you know, we're prepared to go forward
14 today but we're also prepared to listen to Your Honor. Perhaps
15 Your Honor has had experience in other cases that we can use in
16 this case. Again, this is not a one-off situation but
17 something that we're going to have in the future.

18 THE COURT: Mr. Smolinsky, is this the same claimant
19 or a different one than the claimant as to whom I issued an
20 endorsed order a day or two ago where after reading the
21 claimant's submission quite carefully I determined that the
22 motion was denied for failure to establish a prima facie
23 entitlement to relief?

24 MR. SMOLINSKY: If that's the one, Your Honor, that
25 questioned whether or not Your Honor was an active judge for

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1 this court, that is a different claimant. That is Lefonso
2 Washington (ph.) --

3 THE COURT: Right.

4 MR. SMOLINSKY: -- which will be on before you on the
5 2nd of March.

6 THE COURT: Fair enough.

7 MR. SMOLINSKY: At least he gives thousands of pages
8 of information that we could try to glean a claim. A lot of
9 these claims are simply just cover sheets.

10 THE COURT: Including the fact that I don't have
11 jurisdiction to sit in a bankruptcy court?

12 MR. SMOLINSKY: That's right.

13 THE COURT: Okay. Mr. Smolinsky, I'm grateful that
14 you and your colleagues have given special attention to the
15 needs of pro se claimants, and although it's costing you extra
16 time and resources and ultimately creditor money to do it, I
17 would like that to continue. But there comes a time when I
18 think that you and your folks have done all that we can
19 reasonably expect, and I don't think it's fair to the other
20 creditors to ask you to do any more.

21 If I were sitting on the Supreme Court and not way
22 down on the bankruptcy court, I would have stuck with the
23 standards of Conley v. Gibson in evaluating claims to see
24 whether the judge can ascertain a basis for awarding relief.

25 And in those cases where the pro se claimant has expressed his

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1 or her claim inarticulately or has given you some but less than
2 all of the documentation you need, I'm inclined to cut people
3 some slack and give them a chance to get their house in order.

4 But in the case of Ms. Marchbanks where you don't get
5 any showing of an entitlement or where they don't respond to
6 your e-mails or your other messages, I think you've done all
7 that the fairness of the system should require, and I'm going
8 to give you the default in that situation. And give the word
9 to the folks that going forward that if you're imperfect in
10 documenting your claim I'll likely give you a chance to cure
11 but if you don't respond to the estate at all I'll be entering
12 further defaults similar to the one I'm doing today.

13 MR. SMOLINSKY: Thank you, Your Honor. Do you want
14 us to settle an order or just submit it?

15 THE COURT: Well, if there had been a response I
16 would have required you to settle the order. There having been
17 no response, you may submit it.

18 MR. SMOLINSKY: Thank you, Your Honor.

19 THE COURT: Okay.

20 MR. SMOLINSKY: And as with all other orders of claim
21 objections, we'll serve a copy of the order out to the
22 claimant.

23 THE COURT: The rule of thumb being if the person
24 tried to get my attention and ultimately did not prevail I'll
25 want you to settle. If they don't meet you halfway you can

1 submit.

2 MR. SMOLINSKY: Thank you, Your Honor.

3 THE COURT: Okay.

4 MR. SMOLINSKY: Moving to item number 3 on the
5 agenda, that's omnibus debtors' motion number 6, amended and
6 superseded claims. We've received no responses to that motion,
7 no objections, and we'd like to move forward.

8 THE COURT: Granted.

9 MR. SMOLINSKY: Item number 4, a debtors' seventh
10 omnibus objection that is duplicate claims. We received two
11 responses, one from Atlas Technologies, which we've spoken to
12 and it's not an objection to the relief requested in the
13 motion. And secondly from the Casmalia Resources Site Steering
14 Committee. We've agreed to withdraw the motion with respect to
15 Casmalia, and we'd like the rest of the relief granted.

16 THE COURT: Okay, that's fine.

17 MR. SMOLINSKY: Thank you, Your Honor.

18 The next item on the agenda, item number 5, debtors'
19 eighth omnibus objection. These are claims with insufficient
20 documentation. Your Honor, we have made clear to claimants
21 that if they give any type of information in response to this
22 motion that we've excluded them from the treatment in the
23 motion and have withdrawn the motion and we notified them of
24 that effect.

25 There are two claims with insufficient documentation

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1 motions. It's the eighth and then the ninth, which is item
2 number 6. We've added to those orders, just to make clear --
3 we really don't know what those claims are about but we added
4 language making it clear that the expungement of the claim
5 doesn't effect any workers' compensation claims that would be
6 entitled to treatment from New GM, just to make clear because
7 we suspect that some of them may be workers' comp claims.

8 We've also added to the order an order paragraph
9 which provides that if you hold a debt security and your claim
10 is being expunged it does not preclude you from participating
11 in recoveries under claims that are filed by the indenture
12 trustees.

13 THE COURT: Um-hum.

14 MR. SMOLINSKY: So hopefully that will give comfort
15 to -- there were some accounts that were IRA accounts. I think
16 you could kind of maybe figure out that it's some kind of
17 security. So we've added that language to make clear, and as
18 again, we'll serve a copy of the order on all the claimants.

19 THE COURT: In fact, obligations on debt securities
20 were scheduled by the debtors as well, weren't they?

21 MR. SMOLINSKY: That's correct, Your Honor, and we're
22 working on stipulations.

23 THE COURT: Right, okay.

24 MR. SMOLINSKY: So that takes care of items number 5
25 and number 6.

1 Your Honor, just one note on the seventh omnibus
2 objection. There is a claim filed by Nidec Motors. It's a
3 100,000 dollar claim and it's a duplicative claim which we're
4 getting rid of. In connection with that motion that was filed
5 we got a call from counsel to Nidec Motors -- and I'm now
6 moving to item number 7 on the agenda. Counsel told us that he
7 has not been able to contact his client and therefore filed a
8 motion to withdraw as counsel.

9 We have no objection to him withdrawing. We did want
10 to note that he could not reach his client even before the
11 claim was filed so he filed a protective claim in the amount of
12 100,000 dollars, a 503(b)(9) and for goods sold. He had no
13 idea when he was filing that motion whether or not there was
14 any obligation. This is -- Nidec is not a U.S. company. And
15 we would like his help in trying to withdraw the claim or at
16 least provide us with information that would allow us to
17 expunge that claim, given the fact that there's no real
18 background or basis for the claim in the first place.

19 MR. EISENBERG: Your Honor, this is David Eisenberg
20 from Erman, Teicher, Miller, Zucker & Freedman --

21 THE COURT: Yes.

22 MR. EISENBERG: -- and I am the attorney that Mr.
23 Smolinsky talked to regarding our motion to withdraw. And I
24 just want to note that up to the bar date for the 503(b)(9)
25 claims we had contact initially with our client who had

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1 indicated that they had unsecured claims in this proceeding and
2 they also believed they had a 503(b)(9) claim.

3 Leading up to the bar date to file the 503(b)(9)
4 claim we were not able to contact our client. We had
5 repeatedly requested information on the 503(b)(9) claim,
6 repeatedly advised of the impending bar date, and were not able
7 to get any information. So we did in fact file an estimated
8 503(b)(9) proof of claim.

9 I did not -- we did not file the claim with
10 absolutely no information and having no knowledge that there
11 was a claim at all. Rather, when we began the engagement with
12 our client they had indicated that they did have a twenty-day
13 claim. However, at the time that the bar date arose we didn't
14 have any of the backup information or the exact figures.

15 THE COURT: Um-hum.

16 MR. EISENBERG: So when I -- earlier when speaking
17 with Mr. Smolinsky and some other attorneys at Weil, they had
18 indicated that should the Court grant our motion to withdraw
19 they would provide an extra thirty-day notice on the claims
20 objection to Nidec.

21 THE COURT: Okay. Well, Mr. Eisenberg, I didn't hear
22 Mr. Smolinsky asking for any 901(1) relief, and recognizing the
23 practical box you are in I'm not of a mind to do anything on my
24 own motion. But here's what I want to do because, again, I
25 have to consider not just the fairness to Nidec but to the

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1 remainder of the creditor community. But a question first to
2 either you, Mr. Eisenberg, or Mr. Smolinsky. How much time has
3 Nidec now had to respond to your motion to withdraw?

4 MR. EISENBERG: They've had at least -- well, they've
5 probably had four weeks or so.

6 THE COURT: And to the knowledge of either you or Mr.
7 Smolinsky there has been no response to that request?

8 MR. EISENBERG: Well, Your Honor, I can provide some
9 additional information. After we filed the motion to
10 withdraw -- now, previous to the motion to withdraw we had
11 communicated with Nidec requesting that they stipulate to allow
12 us to withdraw. We ended up filing the motion because we got
13 no response. And in the interim, prior to the original
14 February 3rd response deadline we got an e-mail from our client
15 contact acknowledging that she had received the motion,
16 requesting that we reconsider. And I replied to the e-mail
17 saying that we did not want to reconsider, we wanted to move
18 forward with the motion, and considering as much whether they
19 would, again, stipulate to our withdrawal. I did not receive a
20 response to that e-mail. I advised our client contact of the
21 response deadline, the original hearing date, and when the
22 hearing date was rescheduled I again used the same e-mail and
23 advised of the new hearing date.

24 THE COURT: Okay. All right, Mr. Smolinsky, any
25 further comments before I rule?

1 MR. SMOLINSKY: Your Honor, the only other comment is
2 I referred to omnibus motion number 7 because that is a
3 duplicative claim that we are seeking to expunge. In theory,
4 Mr. Eisenberg filed two claims and we should be able to expunge
5 one as part of omnibus 7. If you'd like the thirty days that
6 Mr. Eisenberg was talking about we can re-notice that motion
7 with respect to the Nidec duplicative claim for another thirty
8 days, but it doesn't undo the fact that we still would have a
9 second claim out there.

10 THE COURT: Well, the duplicative claim, it seems to
11 me, is a no-brainer --

12 MR. SMOLINSKY: Um-hum.

13 THE COURT: -- because by definition the underlying
14 claim would remain. The question may be for today or may be
15 for another day but I assume that either you or the creditors'
16 committee is going to want to knock out the original claim at
17 some time going in the future. And Mr. Eisenberg, Mr.
18 Smolinsky was just nodding yes but it wasn't audible. And
19 that's where Mr. Eisenberg's motion is going to become more
20 relevant.

21 The motion to strike the duplicative claim is
22 granted.

23 Mr. Eisenberg, if your motion to withdraw has been
24 pending for the four weeks you said -- and I have no reason to
25 doubt your representation to me in that regard -- I am going to

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1 grant your motion asking -- excuse me, directing that you
2 settle an order so providing, at your earliest reasonable
3 convenience.

4 Now, on the underlying motion -- excuse me, claim,
5 the one that remains after me having stricken the duplicative
6 one, my tentative, subject to people's rights to be heard,
7 given what Mr. Eisenberg acknowledged, is that I should today
8 be issuing an order that strikes the original claim as well,
9 unless people are concerned about its due process implications,
10 and providing that Nidec has a fixed period of time -- and I'm
11 thinking thirty days -- to file a new claim that's properly
12 documented that will be deemed to have been as timely as the
13 original one. But I have concerns about the integrity of the
14 process with that claim lying out there. And I'll hear from
15 you, Mr. Smolinsky, and you, Mr. Eisenberg, as to whether that
16 cuts due process a little too fine and whether you have a
17 preferred approach, or whether you would like to simply tee
18 this up going forward for a dismissal, Mr. Smolinsky, with
19 notice to Nidec with Mr. Eisenberg having been excused from
20 having to participate any further.

21 MR. SMOLINSKY: Your Honor, I'm not sure I have a due
22 process concern because we're effectively setting a new bar
23 date. I would be concerned to the extent that they could file
24 a claim in excess of 100,000 dollars which was the amount of
25 the original claim. I don't think that there's a basis to get

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1 a benefit from what they've done and to allow them to file a
2 claim in excess of that that's already on file.

3 THE COURT: Mr. Eisenberg, it wasn't audible, but I
4 was kind of nodding in agreement to what Mr. Smolinsky said.
5 Do you want to be heard on that?

6 MR. EISENBERG: Well, I don't really have the
7 objection on the due process grounds either, but I'm not
8 exactly sure what to say to what Mr. Smolinsky said. I suppose
9 it's up to Your Honor. Having no idea of what the -- you know,
10 what the true amount is, if any, I would hate to have Nidec be
11 limited to 100,000 dollars or less if in fact it is greater.

12 THE COURT: Well, folks, the problem I have is that
13 when a claim has been filed in good faith the amount for which
14 the claim has been originally filed is not always a cap on its
15 ultimate allowance. But I certainly don't want to pre-judge
16 that issue now. Ultimately what I'm going to do is divert a
17 little bit from my tentative.

18 Your motion to be -- authorize to withdraw is
19 granted, Mr. Eisenberg.

20 MR. EISENBERG: Thank you, Your Honor.

21 THE COURT: Mr. Smolinsky, have one of your folks tee
22 up the underlying claim for expungement at such time as you
23 want to do it. The original claim in that 100,000 dollar
24 amount will remain for the time being. And then you'll
25 certainly have the -- if there is a response then we'll see

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1 what Nidec says about what their claim is. And there will have
2 to be a time, to state the obvious, at which Nidec will have to
3 show its entitlement to the allowance of the claim which has
4 been filed, not to mention any additional incremental amount
5 for which it might seek relief. Your right to contend that it
6 shouldn't exceed 100,000 will be reserved, and if Nidec has
7 arguments to the contrary I'll hear what it has to say as well.

8 MR. SMOLINSKY: Thank you, Your Honor. I think that
9 that's prudent to just file an objection to the claim. I would
10 only ask Your Honor to direct -- and it doesn't need to be in
11 the order -- that within five or ten days Mr. Eisenberg
12 delivers to us all the addresses and contact people that he has
13 been dealing with because we only have his law firm as
14 appropriate address to serve that objection.

15 THE COURT: Mr. Eisenberg, I'll take your oral
16 promise, if you want to give it to me. Otherwise I'll -- I
17 think I'll want it in the order.

18 MR. EISENBERG: I will provide the information I
19 have, Your Honor.

20 THE COURT: Okay. Then you don't need to put it in
21 the order since he told us that, Mr. Smolinsky.

22 Okay. Mr. Eisenberg, does that take care of that
23 seventh omnibus objection?

24 MR. EISENBERG: Yes, it does, Your Honor.

25 THE COURT: Then you can drop off the phone if you

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1 care to.

2 MR. EISENBERG: All right, thank you, Your Honor.

3 THE COURT: Okay. What else have we got, Mr.

4 Smolinsky?

5 MR. SMOLINSKY: I think that's it, Your Honor.

6 THE COURT: Okay, very good. Thank you. And anybody
7 who was here just on GM is free to leave and I'm going to just
8 sit in place; we're going to start in on the 9:45 calendar now.

9 MR. SMOLINSKY: Thank you, Your Honor.

10 THE COURT: Thank you.

11 (Whereupon these proceedings were concluded at 9:52 AM)

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2 I N D E X

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4 RULINGS

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13 Debtors' sixth omnibus objection to amended 14 and superseded claims - granted	18	8
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6 Motion for Erman, Teicher, Miller, Zucker 23 23
7 Zucker & Freedman, P.C. to withdraw
8 as counsel for Nidec Motors & Actuators
9 - granted

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C E R T I F I C A T I O N

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4 I, Sharona Shapiro, certify that the foregoing transcript is a
5 true and accurate record of the proceedings.

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7

8 SHARONA SHAPIRO

9 AAERT Certified Electronic Transcriber (CET**D-492)

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11 Veritext

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16 Date: August 24, 2010

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